

## 1 SENATE JOINT RESOLUTION NO. 32

2 INTRODUCED BY J. ELLIOTT

3 BY REQUEST OF THE SENATE TAXATION STANDING COMMITTEE

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6 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF  
7 MONTANA URGING THE UNITED STATES CONGRESS TO SUPPORT STATE TAX SOVEREIGNTY AND  
8 TO REJECT LEGISLATION UNDERMINING STATE CORPORATE INCOME TAXES AND OTHER  
9 NONDISCRIMINATORY BUSINESS TAXES.

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11 WHEREAS, the authority of states to determine their own tax policy is a core element of their  
12 sovereignty under the U.S. Constitution and is necessary for those states to meet the needs of their citizenry  
13 independent of the federal government; and

14 WHEREAS, action by Congress to prevent states from taxing income earned within their borders  
15 fundamentally violates state tax sovereignty; and

16 WHEREAS, legislation has been introduced in Congress in recent years that would significantly limit the  
17 ability of states to tax income earned by multijurisdictional businesses within their borders by severely limiting  
18 the jurisdiction of states to tax those businesses on the basis of physical presence or types of physical activities  
19 in a state; and

20 WHEREAS, Montana law has long provided that a corporation is taxable in Montana if it actively  
21 engages in any transaction for the purpose of financial or pecuniary gain or profit in this state, and this law does  
22 not limit the imposition of these taxes on the basis of the physical activities or means by which the gain or profit  
23 is earned in Montana; and

24 WHEREAS, the proposed federal legislation would preempt this key legal standard for the imposition  
25 of Montana corporate taxes; and

26 WHEREAS, the Montana corporate income tax is a constitutional, nondiscriminatory business tax that  
27 treats both multijurisdictional and local Montana businesses equally in the taxation of income earned within  
28 Montana; and

29 WHEREAS, the proposed federal legislation would unfairly shift the incidence of income taxation to local  
30 Montana businesses by legalizing tax shelters for multijurisdictional corporations that would reduce or eliminate

1 the taxes that those corporations pay on income that they earn in Montana, while leaving Montana businesses  
2 to pay taxes in full; and

3 WHEREAS, the proposed federal legislation would allow multijurisdictional businesses earning income  
4 in Montana to enjoy the benefits of state services without paying a fair share of taxes to Montana.

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6 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF  
7 THE STATE OF MONTANA:

8 That the United States Congress be urged to reject any legislation that would limit or preempt the  
9 authority of states under the U.S. Constitution to impose income and other general business taxes on  
10 multijurisdictional businesses earning income in a state regardless of the means by which those businesses  
11 conduct activities in the state.

12 BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the President  
13 of the United States, the Speaker of the United States House of Representatives, the President of the United  
14 States Senate, and each member of Montana's Congressional Delegation.

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